

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Matthew Fairbanks, et al.,

Court File No. 23-CV-02407
(JNE/DTS)

Plaintiffs,

v.

**MOTION TO WITHDRAW AS
COUNSEL**

Twisted Mechanical, LLC,

Defendant.

NOTICE OF MOTION

PLEASE TAKE NOTICE that Bryan J. Morben of Fredrikson & Byron, P.A., will move the Court for an order allowing him to withdraw as counsel of record for Defendant Twisted Mechanical, LLC.

MOTION

The undersigned counsel, Bryan J. Morben of Fredrikson & Byron, P.A., hereby moves this Court for an order granting this motion to withdraw as counsel of record for Defendant Twisted Mechanical, LLC, pursuant to L.R. 83.7(c). In support of this motion, counsel states as follows:

1. The undersigned has served as one of the attorneys of record for Defendant beginning in September 2023. (*See ECF No. 13*).

2. Plaintiffs and Defendant have been engaged in settlement negotiations since at least December 2023. Indeed, in a companion case filed by Plaintiffs against Defendant's affiliated company, D.P. Fabrication, LLC (Court File No. 23-CV-02490-JMB-TNL), the

initial Pretrial Scheduling Conference and all related deadlines and have been stayed since January 17, 2024. (*See id.* at ECF Nos. 32, 36).

3. Defendant submitted the most recent settlement offer on May 16, 2024. Unfortunately, Plaintiffs rejected that offer and refused to engage in further negotiations on June 17, 2024.

4. Plaintiffs then proceeded to serve written discovery requests upon Defendant, which Defendant responded to on July 24, 2024. Defendant served its first set of written discovery requests upon Plaintiffs on July 26, 2024.

5. Despite counsel's best efforts, the attorney-client relationship has materially broken down and is irreparable.

6. Defendant has been on notice of the possibility of counsel's withdrawal since no later than July 2, 2024. The undersigned has made multiple attempts to resolve the attorney-client relationship since then to no avail.

7. The undersigned has also attempted to reach a stipulation with Plaintiffs' counsel to extend the discovery deadline and any other necessary related case deadlines for 60 days to allow adequate time for both parties to complete any necessary discovery and to avoid any potential prejudice to either party as a result of the undersigned's requested withdrawal. To date, Plaintiffs have not agreed to any specific extension. Because of the parties' focus on settlement negotiations over the last seven months, and the undersigned's requested withdrawal, there is good cause for extending the discovery and related case deadlines. *Fed. R. Civ. P.* 16(b)(4).

8. Nevertheless, there are no pending motions or requests for Defendant to respond to, written discovery has been responded to and propounded by Defendant, and trial is not set until May 5, 2025.

9. The undersigned has notified Defendant of this motion.

Dated: August 12, 2024

s/ Bryan J. Morben

Bryan J. Morben (#0396624)

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